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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,334	12/12/2001	Edwin Espanola Bautista	CM03513J/10-41	1739
23400	7590	09/24/2004	EXAMINER	
POSZ & BETHARDS, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			HOLLOWAY III, EDWIN C	
			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/020,334	BAUTISTA ET AL.
	<b>Examiner</b>	Art Unit
	Edwin C. Holloway, III	2635

All participants (applicant, applicant's representative, PTO personnel):

(1) Edwin C. Holloway, III. (3) \_\_\_\_\_.

(2) Charles W. Bethards. (4) \_\_\_\_\_.

Date of Interview: 21 September 2004.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1,2 and 11.

Identification of prior art discussed: Yamada (US 5438701).

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See attached summary.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  

(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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***Interview Summary***

The three discussion points listed in applicant's "discussion for response after final" faxed to the examiner on 9-21-04 were discussed in the interview. Regarding applicant's arguments that Yamada is non-analogous art, this is not a proper argument for the claims rejected under 35USC102 because analogous art is only an issue for rejections relying on 35USC103. See MPEP 2141.01(a). Regarding the claims rejected under 35USC103, the examiner contends Yamada is analogous art because Yamada includes selective call receiver (1) including a first receiver (32) having lower power consumption for receiving a call signal (selective call paging signal) and a messaging receiver (23) activated by an enable signal (step S4) in the same manner as applicant's selective call receiver.

The argument that Yamada does not show either a messaging receiver activated by another receiver or a first message receiver with low power consumption is not persuasive because the receiver 23 of Yamada is a messaging receiver and is activated in response to the first receiver 32. Receiver 23 is a messaging receiver since it receives telephone (voice), picture or data communication that represents messages. See col. 3 lines 30-36. The receiver 32 is low power in col. 4 line 18.

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Applicant argues that it is not appropriate to use applicant's background statement since that material, in context, teaches away from using the disclosed low power receivers in this field. This argument is not persuasive because the examiner does not consider the background to teach away from the claimed invention. The background states that the prior art is marginal/unacceptable for some applications, but does not specify any application. The background states that low power receivers lack sophistication, but applicant's claims do not require sophistication. The low power paging receiver of Yamada does not require sophistication. Page 14 lines 1-6 of applicant's specification reciting that duty cycle for the low power receiver of applicant's invention is used in traditional paging systems contradicts the argument that the background teaches away from using low power receivers in this field.

Applicant further argued that Yamada lacks the shelf life limitation in the dependent claims. The examiner responded that he was not prepared to argue this limitation since it was not in applicant's discussion points, but noted that because the claims lacked any particular structure to provide the functional recitation, it was sufficient that low power receiver of Yamada may have been capable of such. If the receiver is not turned on, or the pager duty cycle is such that the pager is off a

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"substantial" amount of the time, then the "expected battery life" of the pager battery could have been expected to possibly be about "substantially" on the order of the shelf life a pager battery. It would seem that applicant's technique that applicant admits is used in traditional paging systems (page 14 lines 1-6) should not have had an "expected" battery life that would have differed "substantially" from that of the traditional paging device using the same technique.

The examiner suggested that applicant either file an appeal or file an RCE that adds further limitations to clarify the messaging receiver in the independent claims, such as ad-hoc, IEEE 802.15.3, 802.15.4 or DSSS PSK on page 8 of the original specification. The examiner also suggested that a copy of the IEEE 802.15.3/802.15.4 standards, as existing at the time the invention was made, be submitted.

#### **CONTACT INFORMATION**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at [ebc@uspto.gov](mailto:ebc@uspto.gov). The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications.

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Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (571) 272-2600.

Facsimile submissions may be sent via fax number (703) 872-9306 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068.

EH  
9/22/04

  
**EDWIN C. HOLLOWAY, III**  
**PRIMARY EXAMINER**  
**ART UNIT 2635**